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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,791	04/02/2004	Cristian M. Neculescu	02734-0388-03	9925

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PATENT GROUP GA030-43
GEORGIA-PACIFIC CORPORATION
133 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1847

EXAMINER

EASHOO, MARK

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/815,791

Applicant(s)

NECULESCU ET AL.

Examiner

Mark Eashoo, Ph.D.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 87-95, 98 and 100-109 is/are pending in the application.
- 4a) Of the above claim(s) 87-95 and 109 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 98 and 100-108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

Claims 87-95 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 02-APR-2005.

New claim 109 is directed to a product from claim group III. Accordingly, this claim is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim.

This application contains claims drawn to an invention nonelected with traverse in papers filed 02-APR_2005. *A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action* (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 98 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 98 recites the limitation "the platy inorganic material". There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 98 and 100-108 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. US Pat. 6,719,943 in view of Huang (US Pat. 5,439,628) and Nakazima (US Pat. 5,001,176).

Although the claims are not identical, claims 1-21 of U.S. Patent No. US Pat. 6,719,943 substantially teach: vacuum thermoforming; a mica filled polypropylene sheet which forms a micronodular surface on the surface not in

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contact with a mold surface; wherein the container material has excellent chemical and mechanical resistance; admixed pigment and coupling agent; and a processing temperature of about 260°F.

Claims 1-21 of U.S. Patent No. US Pat. 6,719,943 do not teach a silane coupling agent. However, Nakazima teaches a silane coupling agent (4:35-65). At the time of invention a person of ordinary skill in the art would have found it obvious to have used a silane coupling agent, as taught by Nakazima, in the claimed process of U.S. Patent No. US Pat. 6,719,943, since Nakazima suggests that such coupling agent improve the bonding between inorganic fillers such as mica and polyolefins such as polypropylene.

Claims 1-21 of U.S. Patent No. US Pat. 6,719,943 do not teach titanium dioxide or a polyvinylidene fluoride processing aid. However, Huang teaches a pre-blended/admixed titanium dioxide (example 1) and a polyvinylidene fluoride processing aid (7:1-22). At the time of invention a person of ordinary skill in the art would have found it obvious to have used a pre-blended/admixed titanium dioxide (example 1) and a polyvinylidene fluoride processing aid, as taught by Huang in the claimed process of U.S. Patent No. US Pat. 6,719,943, since Huang suggests that such pigment yields a desired article color and that the processing aid improves mold release.

Claims 98 and 100-108 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. US Pat. 6,403,936 in view of Huang (US Pat. 5,439,628), Young (Introduction to Polymers, pgs. 196, 204) and Nakazima (US Pat. 5,001,176).

Although the claims are not identical, claims 1-11 of U.S. Patent No. US Pat. 6,403,936 substantially teach: thermoforming; a mica filled polypropylene sheet which forms a micronodular surface on the surface not in contact with a mold surface; and wherein the container material has excellent chemical and mechanical resistance.

Claims 1-11 of U.S. Patent No. US Pat. 6,403,936 do not teach a silane coupling agent. However, Nakazima teaches a silane coupling agent (4:35-65). At the time of invention a person of ordinary skill in the art would have found it obvious to have used a silane coupling agent, as taught by Nakazima, in the claimed process of U.S. Patent No. US Pat. 6,403,936, since Nakazima suggests that such coupling agent improve the bonding between inorganic fillers such as mica and polyolefins such as polypropylene.

Claims 1-11 of U.S. Patent No. US Pat. 6,403,936 do not teach titanium dioxide or a polyvinylidene fluoride processing aid. However, Huang teaches a pre-blended/admixed titanium dioxide (example 1) and a polyvinylidene fluoride processing aid (7:1-22). At the time of invention a person of ordinary skill in the art would have found it obvious to have used a pre-blended/admixed titanium dioxide (example 1) and a polyvinylidene fluoride processing aid, as taught by Huang in the claimed process of U.S. Patent No. US Pat. 6,403,936, since Huang suggests that such pigment yields a desired article color and that the processing aid improves mold release.

Claims 1-11 of U.S. Patent No. US Pat. 6,403,936 do not teach vacuum thermoforming at a temperature of at least about 265°F. However, Young teaches that the melting point of polypropylene is about 368°F or 460K and a glass transition or softening point of about -10°F or 250K (pgs. 196, 204). Official Notice is given that vacuum thermoforming is well known in the molding art. At the time of invention a person of ordinary skill in the art would have found it obvious, if not implicit, to have used a vacuum thermoforming temperature in the range between the

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softening point and melting and optimized the processing conditions through routine experimentation, as commonly practiced in the art, in the claimed process of U.S. Patent No. US Pat. 6,403,936, and would have been motivated to do so in order to form a container a having desirable and texture.

Claims 98 and 100-108 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 48-61 of U.S. Patent No. US Pat. 6,100,512 in view of Huang (US Pat. 5,439,628), Young (Introduction to Polymers, pgs. 196, 204) and Nakazima (US Pat. 5,001,176).

Although the claims are not identical, claims 48-61 of U.S. Patent No. US Pat. 6,100,512 substantially teach: vacuum thermoforming; a mica filled polypropylene sheet which forms a micronodular surface on the surface not in contact with a mold surface; wherein the container material has excellent chemical and mechanical resistance; and titanium dioxide.

Claims 48-61 of U.S. Patent No. US Pat. 6,100,512 do not teach a silane coupling agent. However, Nakazima teaches a silane coupling agent (4:35-65). At the time of invention a person of ordinary skill in the art would have found it obvious to have used a silane coupling agent, as taught by Nakazima, in the claimed process of U.S. Patent No. US Pat. 6,100,512, since Nakazima suggests that such coupling agent improve the bonding between inorganic fillers such as mica and polyolefins such as polypropylene.

Claims 48-61 of U.S. Patent No. US Pat. 6,100,512 do not teach a polyvinylidene fluoride processing aid. However, Huang teaches a polyvinylidene fluoride processing aid (7:1-22). At the time of invention a person of ordinary skill in the art would have found it obvious to have used a polyvinylidene fluoride processing aid, as taught by Huang in the claimed process of US Pat. 6,100,512, since Huang suggests that such processing aid improves mold release.

Claims 48-61 of U.S. Patent No. US Pat. 6,100,512 do not teach vacuum thermoforming at a temperature of at least about 265°F. However, Young teaches that the melting point of polypropylene is about 368°F or 460K and a glass transition or softening point of about -10°F or 250K (pgs. 196, 204). At the time of invention a person of ordinary skill in the art would have found it obvious, if not implicit, to have used a vacuum thermoforming temperature in the range between the softening point and melting and optimized the processing conditions through routine experimentation, as commonly practiced in the art, in the claimed process of U.S. Patent No. US Pat. 6,100,512, and would have been motivated to do so in order to form a container a having desirable and texture.

Response to Arguments

Applicant's arguments filed 14-OCT-2005 have been fully considered and are persuasive with respect to the rejections made under 35 USC 103(a).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732

January 7, 2006
me

6/5 2/06